

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES,

Plaintiff,

vs.

No. 2:19-CR-01379 KG/KRS
No. 2:20-CV-01144 KG/KRS

JORGE NEVAREZ-LEDEZMA,

Defendant.

ORDER SETTING EVIDENTIARY HEARING

THIS MATTER is before the Court pursuant to the scheduling conference held on October 19, 2021. IT IS HEREBY ORDERED that an evidentiary hearing will be held via Zoom on January 24, 2022 at 9:00 a.m. The Court will send Zoom invitations to the parties at least two weeks prior to the hearing. At the hearing, the parties may present evidence on the remaining claim in this case, which is Defendant/Movant Jorge Nevarez-Ledezma's claim in his Motion under 28 U.S.C. § 2255, (CV Doc. 1), that his former counsel was ineffective for failing to file an appeal. *See* (CV Doc. 12) (adopting Proposed Findings and Recommended Disposition). The parties' evidence should address: (1) Mr. Nevarez-Ledezma's claim that his former counsel failed to file an appeal after Mr. Nevarez-Ledezma asked him to do so; and (2) whether the former counsel consulted with Mr. Nevarez-Ledezma about filing an appeal, or whether it was reasonable not to consult under *Roe v. Flores-Ortega*, 528 U.S. 470 (2000).

IT IS FURTHER ORDERED that Mr. Nevarez-Ledezma, counsel for both sides, and Mr. Nevarez-Ledezma's former counsel, shall all attend the hearing. Mr. Nevarez-Ledezma's counsel shall coordinate with the United States Marshals Service and the prison facility to ensure

Mr. Nevarez-Ledezma's appearance at the hearing. Counsel for the United States shall ensure Mr. Nevarez-Ledezma's former counsel's appearance at the hearing.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "Kevin Sweazea". The signature is written in a cursive, flowing style. The first name "Kevin" is written in a smaller, more compact script, while the last name "Sweazea" is written in a larger, more expansive script with a long, sweeping tail on the final letter.

KEVIN R. SWEAZEA
UNITED STATES MAGISTRATE JUDGE